

AMENDED IN ASSEMBLY APRIL 15, 2002

AMENDED IN ASSEMBLY APRIL 9, 2002

AMENDED IN ASSEMBLY MARCH 21, 2002

AMENDED IN ASSEMBLY MARCH 4, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1791

Introduced by Assembly Members Runner and Wyman

January 14, 2002

An act to amend Sections ~~83116, 87202~~, 87202 and 87302 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1791, as amended, Runner. Conflicts of Interest: disclosure.

~~Existing provisions of the Political Reform Act of 1974 require the Fair Political Practices Commission, when the commission determines, on the basis of a hearing that a violation of the act has occurred, to issue an order, and authorizes the commission to require the violator to, among other things, pay a monetary penalty of up to \$5,000 per violation to the General Fund of the state.~~

~~This bill would prohibit the commission from issuing an order that requires a state or local governmental agency to pay a monetary penalty for specified violations.~~

~~Existing law~~ *The Political Reform Act of 1974* requires specified officeholders to, within 30 days after assuming the office, file statements of economic interests. These statements are required to be filed not more than 30 days after assuming office, unless the person is

appointed or nominated to an office subject to confirmation by the Commission on Judicial Appointments or the State Senate, in which case the person is required to file the statement no more than 10 days after the appointment or nomination.

This bill would, for officeholders who are appointed or nominated, shorten the filing time to ~~5-working~~ 10 days. The bill would also, with respect to those specified officeholders who are subject to confirmation by the Commission on Judicial Appointments or the State Senate, shorten the filing time to ~~5-working~~ 10 days.

~~Existing provisions of the~~ The Political Reform Act of 1974 ~~require~~ *also requires* every state agency and local government agency to adopt a conflict of interest code, formulated at the most decentralized level possible, that requires designated employees of the agency to file statements of economic interest disclosing any investments, business positions, interests in real property, or sources of income that may foreseeably be affected materially by any governmental decision made or participated in by the designated employee by virtue of his or her position. Existing law requires each new designated employee to file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated.

This bill would shorten the 30-day filing period to ~~5-working~~ 10 days.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing new duties on local agencies, and by imposing the penalties provided by the act on persons who violate the provisions of this bill.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a $\frac{2}{3}$ vote.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 83116 of the Government Code is~~
2 ~~amended to read:~~
3 ~~83116. When the commission determines there is probable~~
4 ~~cause for believing this title has been violated, it may hold a~~
5 ~~hearing to determine if a violation has occurred. Notice shall be~~
6 ~~given and the hearing conducted in accordance with the~~
7 ~~Administrative Procedure Act (Chapter 5 (commencing with~~
8 ~~Section 11500) of Part 1 of Division 3 of Title 2). The commission~~
9 ~~shall have all the powers granted by that chapter. When the~~
10 ~~commission determines on the basis of the hearing that a violation~~
11 ~~has occurred, it shall issue an order that may require the violator~~
12 ~~to do all or any of the following:~~
13 ~~(a) Cease and desist violation of this title.~~
14 ~~(b) File any reports, statements, or other documents or~~
15 ~~information required by this title.~~
16 ~~(c) Pay a monetary penalty of up to five thousand dollars~~
17 ~~(\$5,000) per violation to the General Fund of the state. When the~~
18 ~~Commission determines that no violation has occurred, it shall~~
19 ~~publish a declaration so stating.~~
20 ~~(d) The commission may not issue an order that requires a state~~
21 ~~or local governmental agency to pay a monetary penalty for any~~
22 ~~of the following:~~
23 ~~(1) Failure to comply with requirements to file a statement of~~
24 ~~economic interests.~~
25 ~~(2) Failure to comply with conflict of interest reporting~~
26 ~~requirements required by this act.~~
27 ~~(3) Participation in a decision-making process that is~~
28 ~~prohibited by this act or a conflict of interest code.~~
29 ~~SEC. 2.—~~

1 SECTION 1. Section 87202 of the Government Code is
2 amended to read:

3 87202. (a) Every person who is elected to an office specified
4 in Section 87200 shall, within 30 days after assuming the office,
5 file a statement disclosing his or her investments and his or her
6 interests in real property held on the date of assuming office, and
7 income received during the 12 months before assuming office.
8 Every person who is appointed or nominated to an office specified
9 in Section 87200 shall file ~~such a~~ the statement not more than ~~five~~
10 ~~working~~ 10 days after assuming office. Additionally, a person
11 appointed or nominated to such an office who is subject to
12 confirmation by the Commission on Judicial Appointments or the
13 State Senate shall file ~~such a~~ the statement no more than ~~five~~
14 ~~working~~ 10 days after the appointment or nomination.

15 The statement shall not be required if the person has filed,
16 within 60 days prior to assuming office, a statement for the same
17 jurisdiction pursuant to Section 87203.

18 (b) Every elected state officer who assumes office during the
19 month of December or January shall file a statement pursuant to
20 Section 87203 instead of this section, except that:

21 (1) The period covered for reporting investments and interests
22 in real property shall begin on the date the person filed his or her
23 declarations of candidacy.

24 (2) The period covered for reporting income shall begin 12
25 months prior to the date the person assumed office.

26 ~~SEC. 3.—~~

27 SEC. 2. Section 87302 of the Government Code is amended
28 to read:

29 87302. Each Conflict of Interest Code shall contain the
30 following provisions:

31 (a) Specific enumeration of the positions within the agency,
32 other than those specified in Section 87200, that involve the
33 making or participation in the making of decisions which may
34 foreseeably have a material effect on any financial interest and for
35 each enumerated position, the specific types of investments,
36 business positions, interests in real property, and sources of
37 income that are reportable. An investment, business position,
38 interest in real property, or source of income shall be made
39 reportable by the Conflict of Interest Code if the business entity in
40 which the investment or business position is held, the interest in

1 real property, or the income or source of income may foreseeably
2 be affected materially by any decision made or participated in by
3 the designated employee by virtue of his or her position.

4 (b) Requirements that each designated employee, other than
5 those specified in Section 87200, file a statement not more than
6 ~~five working~~ 10 days after the designated employee's first day of
7 employment and under circumstances described in this section,
8 disclosing reportable investments, business positions, interests in
9 real property and income. The information disclosed with respect
10 to reportable investments, interests in real property, and income
11 shall be the same as the information required by Sections 87206
12 and 87207.

13 (1) The first statement filed under a Conflict of Interest Code
14 by a designated employee shall disclose any reportable
15 investments, business positions, interests in real property, and
16 income. An initial statement shall be filed by each designated
17 employee within 30 days after the effective date of the Conflict of
18 Interest Code, disclosing investments, business positions, and
19 interests in real property held on the effective date of the Conflict
20 of Interest Code and income received during the 12 months before
21 the effective date of the Conflict of Interest Code. Thereafter, each
22 new designated employee shall file a statement not more than ~~five~~
23 ~~working~~ 10 days after assuming office, or if subject to State Senate
24 confirmation, not more than ~~five working~~ 10 days after being
25 appointed or nominated, disclosing investments, business
26 positions, and interests in real property held on, and income
27 received during the 12 months before, the date of assuming office
28 or the date of being appointed or nominated, respectively.

29 (2) Each designated employee shall file an annual statement, at
30 the time specified in the Conflict of Interest Code, disclosing
31 reportable investments, business positions, interest in real
32 property and income held or received at any time during the
33 previous calendar year or since the date the designated employee
34 took office if during the calendar year.

35 (3) Every designated employee who leaves office shall file,
36 within 30 days of leaving office, a statement disclosing reportable
37 investments, business positions, interests in real property, and
38 income held or received at any time during the period between the
39 closing date of the last statement required to be filed and the date
40 of leaving office.

1 (c) Specific provisions setting forth any circumstances under
2 which designated employees or categories of designated
3 employees must disqualify themselves from making, participating
4 in the making, or using their official position to influence the
5 making of any decision. Disqualification shall be required by the
6 Conflict of Interest Code when the designated employee has a
7 financial interest as defined in Section 87103, which it is
8 reasonably foreseeable may be affected materially by the decision.
9 No designated employee shall be required to disqualify himself or
10 herself with respect to any matter that could not legally be acted
11 upon or decided without his or her participation.

12 (d) For any position enumerated pursuant to subdivision (a), an
13 individual who resigns the position within 12 months following
14 initial appointment or within 30 days of the date of a notice mailed
15 by the filing officer of the individual's filing obligation, whichever
16 is earlier, is not deemed to assume or leave office, provided that
17 during the period between appointment and resignation, the
18 individual does not make, participate in making, or use the position
19 to influence any decision of the agency or receive, or become
20 entitled to receive, any form of payment by virtue of being
21 appointed to the position. Within 30 days of the date of a notice
22 mailed by the filing officer, the individual shall do both of the
23 following:

24 (1) File a written resignation with the appointing power.

25 (2) File a written statement with the filing officer on a form
26 prescribed by the commission and signed under the penalty of
27 perjury stating that the individual, during the period between
28 appointment and resignation, did not make, participate in the
29 making, or use the position to influence any decision of the agency
30 or receive, or become entitled to receive, any form of payment by
31 virtue of being appointed to the position.

32 ~~SEC. 4.—~~

33 *SEC. 3.* No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution for
35 certain costs that may be incurred by a local agency or school
36 district because in that regard this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

3 However, notwithstanding Section 17610 of the Government
4 Code, if the Commission on State Mandates determines that this
5 act contains other costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code. If the statewide cost of the
9 claim for reimbursement does not exceed one million dollars
10 (\$1,000,000), reimbursement shall be made from the State
11 Mandates Claims Fund.

12 ~~SEC. 5.—~~

13 *SEC. 4.* The Legislature finds and declares that the provisions
14 of this act further the purposes of the Political Reform Act of 1974
15 within the meaning of subdivision (a) of Section 81012 of the
16 Government Code.

